

1 JEAN-PAUL CIARDULLO, CA BAR NO. 284170  
jciardullo@foley.com

2 **FOLEY & LARDNER LLP**  
3 555 South Flower Street, Suite 3300  
4 Los Angeles, CA 90071  
Telephone: (213) 972-4500  
Facsimile: (213) 486-0065

5 ELEY O. THOMPSON (*pro hac vice forthcoming*)  
ethompson@foley.com

6 **FOLEY & LARDNER LLP**  
7 321 N. Clark Street, Suite 2800  
8 Chicago, IL 60654-5313  
Telephone: (312) 832-4359  
Facsimile: (312) 832-4700

9 LUCAS I. SILVA (*pro hac vice forthcoming*)  
lsilva@foley.com

10 **FOLEY & LARDNER LLP**  
11 111 Huntington Avenue, Suite 2500  
12 Boston, MA 02199-7610  
Telephone: (617) 342-4000  
Facsimile: (617) 342-4001

13  
14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**  
16 **WESTERN DIVISION**

17 PHILIPS NORTH AMERICA LLC,

18 *Plaintiffs,*

19 v.

20 GARMIN INTERNATIONAL, INC.  
21 GARMIN USA, INC. and GARMIN LTD.,

22  
23 *Defendants.*  
24

Case No. 2:19-cv-6301

**COMPLAINT FOR PATENT  
INFRINGEMENT**

***JURY TRIAL DEMANDED***

25  
26 **COMPLAINT FOR PATENT INFRINGEMENT**

27 Philips North America LLC (“Philips North America” or “Plaintiff”), by its  
28 undersigned counsel, hereby alleges, with knowledge with respect to its own acts and on

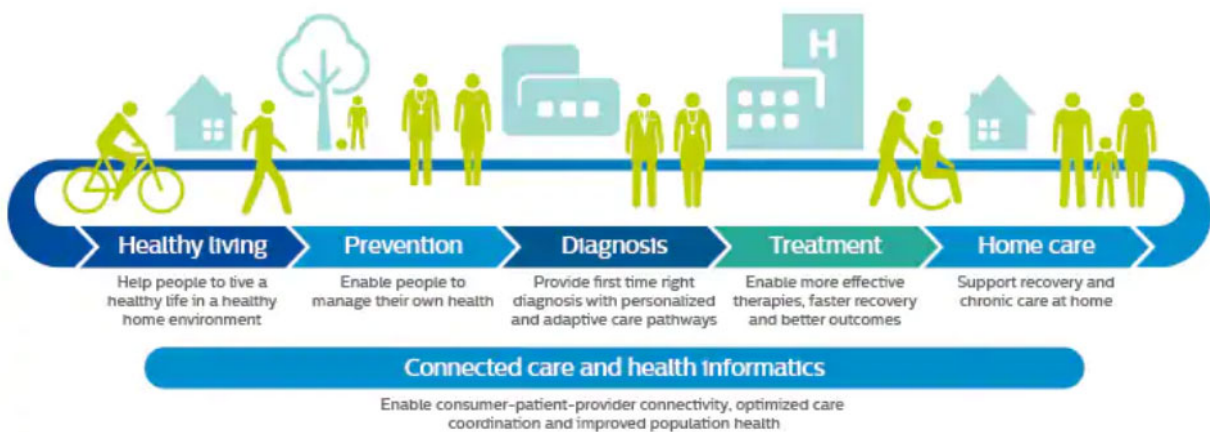
1 information and belief as to other matters, the following in support of its Complaint  
2 against Garmin International, Inc., Garmin USA, Inc. and Garmin Ltd. (collectively  
3 “Defendants” or “Garmin”).

### 4 NATURE OF THE ACTION

5 1. Philips North America brings this action to compel Garmin to stop  
6 infringing Philips North America’s patents, and to compensate Philips North America for  
7 Garmin’s past infringement.

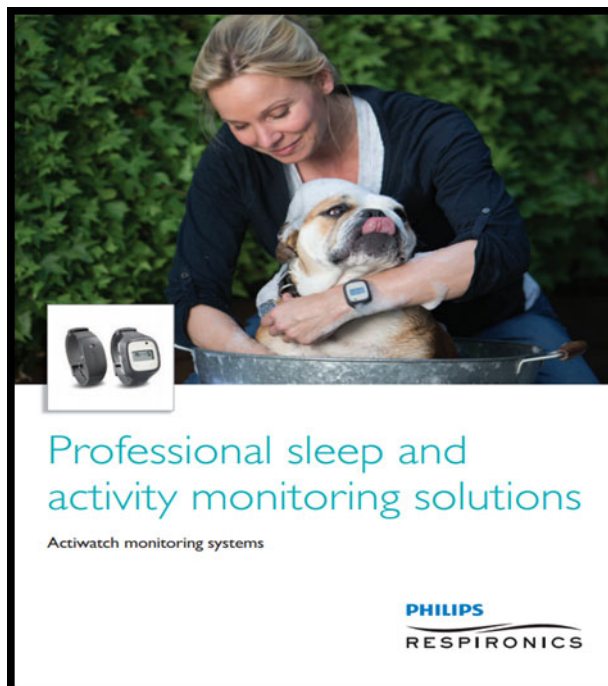
8 2. Philips North America is a subsidiary of Koninklijke Philips N.V.,  
9 originally founded in 1891, and a world leader in technology and innovation across many  
10 technological fields (generally referred to as “Philips”). For more than 100 years, Philips  
11 has dedicated significant resources to research and development for the advancement of  
12 technology used around the world.

13 3. Philips strives to make the world healthier and more sustainable through  
14 innovation with the goal of improving lives of billions of people. Philips approaches  
15 healthcare as a continuum where its technologies can be applied across activities of  
16 healthy living, prevention, diagnosis, treatment and home care as depicted below:



25 4. Connected health technologies developed by Philips are employed across the  
26 health continuum. Both inside and outside hospitals, Philips has developed technologies  
27 that empower consumers to better manage their health by improving access to and  
28 analysis of personal health and fitness information obtained in various manners. Philips

1 provides the Actiwatch family of devices, which are designed to help better understand  
2 the daily activity and sleep and wake patterns of individuals. Examples of Philips  
3 Actiwatch devices are shown here:



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16 5. In another example, MIO Global incorporated Philips' heart rate monitor  
17 technology into its MIO Alpha fitness tracker watch, making it among the first and most  
18 accurate integrated wrist-worn heartrate monitors available. Philips continues to lead the  
19 development of technologies that underpin connected health products including trackers.  
20 Others have recognized the value of Philips' investment in innovation in this area and  
21 have sought and taken technology licenses from Philips, including licenses to the patents  
22 asserted in this case.

23 6. Philips also invests in technologies developed by other companies and has  
24 acquired companies and their patented innovative technologies as part of its emphasis on  
25 supporting and advancing innovation. Philips has made numerous direct investments in  
26 connected health technologies in recent years, including its acquisition of Lifeline  
27 Systems, Inc. in 2006, its acquisition of Wellcentive in 2016, its acquisitions of Health  
28 and Parenting LTD and VitalHealth in 2017, and its acquisition of Blue Willow Systems

1 in 2018. Each of these acquisitions expanded Philips' capabilities in personal health  
2 management and supported Philips' longstanding commitment to deliver integrated  
3 solutions across the health continuum.

4 7. Philips shares its innovation with others through, for example, its pioneering  
5 role in open innovation as well as in offering access to its technology through licensing.  
6 In this way, Philips has been able to share its innovations with many other companies.  
7 Licensing revenues fund further research at Philips. Philips' patent portfolio currently  
8 includes more than 60,000 patents, and in 2017 Philips filed more patent applications in  
9 the field of medical technology at the European Patent Office than any other company in  
10 the world.

11 8. While some of Philips' patents are asserted in this action, Philips has many  
12 others covering connected health. The patented technologies asserted in this action  
13 enable and enhance customer demand for products such as, for example: GPS/audio  
14 athletic training, security mechanisms for transmission of personal data, connected  
15 wearable/online products, and handling of interrupted connections.

16 9. Founded in 1989 as "ProNav," Garmin was originally a company that  
17 offered devices for navigation. Garmin did not offer a wearable tracker for athletic  
18 activity until 2014, after the smartphone eliminated demand for handheld GPS devices  
19 and Garmin's sales plummeted. *See*

20 [https://www.forbes.com/sites/alexknapp/2016/09/14/how-garmin-mapped-out-a-new-  
22 direction-with-fitness-wearables/#5f382ea727b9](https://www.forbes.com/sites/alexknapp/2016/09/14/how-garmin-mapped-out-a-new-<br/>21 direction-with-fitness-wearables/#5f382ea727b9). In entering the wearable tracker market,  
23 Garmin leveraged the patented technology of Philips from the beginning. Garmin  
24 experienced significant growth and revenues as a result. *See*  
25 <https://www.cnet.com/news/garmins-doing-well-in-wearables/>.

26 10. For years, Philips has repeatedly offered to license rights in the Patents-in-  
27 Suit<sup>1</sup> to Garmin, but Garmin has repeatedly refused to accept Philips' offers to license.

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28 <sup>1</sup> The "Patents-in-Suit" refer to the patents identified below in Counts I-IV.

1 Garmin's past and continuing sales of its devices i) willfully infringes Philips' Patents-in-  
2 Suit and ii) impermissibly takes the significant benefits of Philips' patented technologies  
3 without compensation to Philips. Garmin's refusal to take a royalty bearing license under  
4 the Patents-in-Suit has forced Philips to seek remediation to stop Garmin's continuing  
5 willful infringement of the Patents-in-Suit and to be compensated for Garmin's past  
6 willful infringement of the Patents-in-Suit.

7 **PARTIES**

8 11. Plaintiff Philips North America LLC (formerly known as Philips Electronics  
9 North America Corporation) is a limited liability company duly organized and existing  
10 under the laws of Delaware. There are facilities for Philips Sonicare in Ontario, CA  
11 within this Judicial District in addition to Philips Respironics in Carlsbad, CA. Philips  
12 has been a technology leader for over a century including in the field of connected health  
13 products and across the healthcare continuum. Philips patented innovations in this action  
14 pertain to GPS/audio athletic training, security mechanisms for transmission of personal  
15 data, connected wearable/online products, and handling of interrupted connections.

16 12. Defendant Garmin International, Inc. is a corporation organized under the  
17 laws of Kansas having a regular and established place of business located at 120  
18 Cremona Drive, Goleta, CA, within this Judicial District.

19 13. Defendant Garmin USA, Inc. is a corporation organized and existing under  
20 the laws of Kansas having a regular and established place of business located at 120  
21 Cremona Drive, Goleta, CA, within this Judicial District.

22 14. Defendant Garmin International, Inc. also has a regular and established  
23 place of business at 21680 Gateway Center Drive, Diamond Bar, CA, within this Judicial  
24 District.

25 15. Defendant Garmin USA, Inc. also has a regular and established place of  
26 business at 21680 Gateway Center Drive, Diamond Bar, CA, within this Judicial District.

27 16. Defendant Garmin Ltd. is a foreign company organized and existing under  
28 the laws of Switzerland with its principal place of business at Muhlenstalstrasse 2, 8200

1 Schaffhausen, Switzerland. In addition to infringements, many leadership decisions are  
2 made from Garmin Ltd.

3 17. Garmin International, Inc. and Garmin USA, Inc. are wholly owned  
4 subsidiaries of Garmin Ltd.

5 18. Garmin develops, manufactures, markets, sells and uses connected health  
6 products including ones that employ GPS/audio athletic training, security mechanisms for  
7 transmission of personal data, connected wearable/online products, and handling of  
8 interrupted connections that incorporate Philips' patented technology. Garmin has not  
9 obtained a license or otherwise acquired rights from Philips for use of the Patents-in-Suit.  
10 Instead, Garmin chose a path of willful infringement.

### 11 **JURISDICTION AND VENUE**

12 19. This action arises under the patent laws of the United States, Title 35 U.S.C.  
13 §§ 1, *et seq.* This Court has both general and specific personal jurisdiction over Garmin  
14 because Garmin has purposefully availed itself of the privilege of conducting business  
15 activities and has conducted and done business within California and this Judicial  
16 District. Garmin has availed itself of the rights and benefits of California law and has  
17 engaged in systematic and continuous contact with California, including with respect to  
18 the development, manufacture, marketing, sale and use of one or more Accused  
19 Products<sup>2</sup>. Garmin also derives substantial revenue from sales of the infringing products  
20 and services in California, and it has availed itself of the privilege of doing business  
21 within California. Garmin's presence in this Judicial District requires it to pay taxes in  
22 California. Garmin is licensed to do business in California.

23 20. Personal jurisdiction is proper because Garmin is doing business and has  
24 committed acts of direct and joint infringement in this Judicial District. This Court has  
25 personal jurisdiction over Garmin because, *inter alia*, this action arises from activities  
26

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27 <sup>2</sup> The "Accused Products" refers to the products accused of infringement herein such as  
28 referenced in Paragraphs 48-51 including all substantially similar products.

1 Garmin directed towards California. For example, Garmin ships infringing products to  
2 residents of California for use in this Judicial District, and it collects substantial revenues  
3 from such residents and related sales.

4 21. As indicated above, Defendant Garmin International, Inc. maintains a  
5 regular and established place of business at 120 Cremona Drive, Goleta, CA. Research  
6 and development activities are conducted at Garmin's Goleta, CA location, including  
7 software engineering related to the features and functionality of one or more of the  
8 Accused Product.

9 22. As indicated above, Defendant Garmin USA, Inc. maintains a regular and  
10 established place of business at 120 Cremona Drive, Goleta, CA. Research and  
11 development activities are conducted at Garmin's Goleta, CA location, including  
12 software engineering related to the features and functionality of one or more of the  
13 Accused Product.

14 23. As indicated above, Defendant Garmin International, Inc. maintains a  
15 regular and established place of business at 21680 Gateway Center Drive, Diamond Bar,  
16 CA. Research and development activities are conducted at Garmin's Diamond Bar, CA  
17 location, including software engineering related to the features and functionality of one or  
18 more of the Accused Products.

19 24. As indicated above, Defendant Garmin USA, Inc. maintains a regular and  
20 established place of business at 21680 Gateway Center Drive, Diamond Bar, CA.  
21 Research and development activities are conducted at Garmin's Diamond Bar, CA  
22 location, including software engineering related to the features and functionality of one or  
23 more of the Accused Products.

24 25. Defendant Garmin Ltd. has shipped one or more of the Accused Products  
25 through the port of Los Angeles to Defendant Garmin USA, Inc. and/or Defendant  
26 Garmin International, Inc. for distribution within this Judicial District.

27 26. Defendant Garmin Ltd. maintains ownership of software operating on  
28 infringing products and systems within this jurisdiction. For example, Garmin provides:

1 “Garmin Ltd. and its subsidiaries (“Garmin”) grant you a license to use the software  
2 embedded in this device (the “Software”) ... Title, ownership rights, and intellectual  
3 rights in and to the Software remain in Garmin and/or its third-party providers.” Source:  
4 Garmin vivofit Owner’s Manual (available at  
5 [https://www8.garmin.com/manuals/webhelp/vivofit/EN-US/GUID-31E7CFE8-6348-  
6 49BC-9561-742127047774.html](https://www8.garmin.com/manuals/webhelp/vivofit/EN-US/GUID-31E7CFE8-6348-49BC-9561-742127047774.html)). Many devices running Garmin owned software are  
7 operating to infringe in this Judicial District.

8 27. Exercising personal jurisdiction over Garmin in this Judicial District would  
9 not be unreasonable given Garmin’s extensive contacts with this Judicial District, the  
10 interest of this Judicial District in resolving disputes related to products and/or services  
11 sold herein, and the harm that would occur to Plaintiff if the Court did not exercise  
12 personal jurisdiction over Garmin.

13 28. In addition, Garmin has knowingly induced and continues to induce and/or  
14 contribute to infringement within this Judicial District by advertising, marketing, offering  
15 for sale and/or selling devices with hardware and/or software that includes infringing  
16 functionality to consumers, customers, partners and/or end users (collectively  
17 “customers”), and it provides instructions, user manuals, advertising, and/or marketing  
18 materials which facilitate, direct, or encourage such infringing use with knowledge  
19 thereof. Garmin also jointly infringes with its customers and subscribers in this Judicial  
20 District with the establishment and operation of connected health solutions covered by  
21 the Patents-in-Suit.

22 29. Each of the Accused Products has been sold by Garmin and shipped to  
23 residents of California for use in this Judicial District, and Garmin collects substantial  
24 revenues from such residents and related sales.

25 30. One or more of the Accused Products are sold at BestBuy and Target retail  
26 stores located in this Judicial District.

27 31. Defendant Garmin Ltd. has purposefully and knowingly directed sales of  
28 one or more of the Accused Products to California and this Judicial District, at least



1 through agreements with its subsidiaries Garmin USA, Inc. and/or Garmin International,  
2 Inc.

3 32. Defendant Garmin Ltd. has purposefully and knowingly directed sales of  
4 one or more of the Accused Products to California and this Judicial District, at least  
5 through established distribution channels it maintains targeting the state of California.

6 33. Garmin owns the software deployed on devices in this Judicial District  
7 operating in manners to directly infringe with other products and systems offered by  
8 Garmin.

9 34. Defendant Garmin Ltd. is aware that its subsidiaries Garmin USA, Inc.  
10 and/or Garmin International, Inc. direct sales of the Accused Products to California and  
11 this Judicial District.

12 35. For these reasons, and for reasons that will be presented to the Court if  
13 jurisdiction is challenged, the Court has personal jurisdiction over each of the  
14 Defendants.

15 36. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because  
16 Garmin resides in this Judicial District and has substantial additional activities in this  
17 Judicial District as alleged herein (*see e.g.* paragraphs 20-24). Garmin has also engaged  
18 and continues to engage in infringing acts in this Judicial District such as alleged herein  
19 (*see e.g.* paragraphs 28-34).

20 37. Garmin has admitted that it maintains a regular and established place of  
21 business in this Judicial District. On June 12, 2017, in the case styled *Location Based*  
22 *Services, LLC v. Garmin International, Inc.*, 17-cv-133-JRG-RSP (E.D. Tex.), the parties  
23 filed a joint motion to transfer the case to this Court, stating that the “Defendant has a  
24 regularly established place of business” in this Judicial District.

25 38. Venue is proper as to defendant Garmin Ltd. because Garmin Ltd. is a  
26 foreign entity and venue is proper wherever there is personal jurisdiction.

27 39. Garmin purposefully directs sales and offers for sale the Accused Products,  
28 including those specifically identified below, toward California and this Judicial District.





**PHILIPS**  
**Lifeline**

44. Philips North America invests heavily to promote innovation in the area of connected health. For example, Philips North America has hosted a Connect2Care User Summit in Los Angeles, which provides an opportunity for innovators from across the healthcare industry to explore top-of-mind issues in connected health, and to participate in an energizing exchange of ideas in an immersive and collaborative environment. Philips has also organized and funded healthcare “hackathons” in California that challenge software developers to create new solutions that enable health care providers to deliver higher quality of care in the hospital or the home by integrating data from personal, clinical and environmental sources. Philips North America also operates a nationwide open innovation portal called SPICE, through which companies and individuals can connect with one another, discuss their innovations with experts at Philips, and learn from Philips’ experience in the area of connected health.

### **Garmin Background and Infringement**

45. Garmin develops and sells wireless-enabled wearable devices that measure data such as number of steps walked, heart rate, blood oxygen, duration and quality of sleep, number of steps climbed, and other inputs related to personal fitness and health.

46. In addition to wearable devices, Garmin has developed and makes available for download various smartphone software applications that also enable users to connect

1 to devices, record and analyze their fitness information. Garmin also maintains servers  
2 interfacing with the software applications and wearable devices collecting sensed  
3 information and providing calculated fitness and health information to its subscribers.

4 47. While others using the patented technology have taken licenses to the  
5 Patents-in-Suit (or foreign equivalents) Garmin has refused to take a license and  
6 continues to infringe the Patents-in-Suit. Garmin has received multiple communications  
7 from Philips concerning the patents-in-suit and its infringement since approximately  
8 February of 2016, but it has failed to cease its infringing activities or to provide any  
9 response to Philips.

### 10 **Accused Products**

11 48. Garmin is, and has been, engaged in manufacturing and/or having  
12 manufactured, selling and/or offering for sale within the United States, using in the  
13 United States, and/or importing into the United States fitness tracking devices and/or  
14 accompanying software applications and servers providing functionality covered by one  
15 or more claims of each of the Patents-in-Suit (the “Accused Products”).

16 49. Non-limiting examples of the infringing fitness tracking devices  
17 manufactured, sold, offered for sale, used, and/or imported by or for Garmin include  
18 various Approach, Edge, Forerunner, vivofit, vivosport, vivosmart, and Fenix 5 fitness  
19 tracker devices used in combination with Garmin apps running on smartphones or other  
20 devices model fitness trackers. Each of these fitness tracking devices has been sold  
21 and/or used within this Judicial District, without limitation, through the website  
22 <https://buy.garmin.com>.

23 50. Garmin maintains established distribution channels within the United States  
24 that permit Garmin to ship the Accused Products, including those specifically identified  
25 in this Complaint, to the state of California and this Judicial District.

26 51. Garmin’s smartphone software applications are available for download on  
27 the Apple App Store, Google Play, the Windows Store, etc. On April 10, 2019, Garmin  
28 announced that its Connect IQ app had been downloaded over 90 million times to more

1 than 10 million compatible smartphones. Garmin’s software applications are available  
2 for download throughout the United States including within this Judicial District and  
3 users of the Accused Products have downloaded Garmin’s software applications within  
4 this Judicial District for use with the Accused Products.

### 5 **Patents-in-Suit**

6 52. The following patents are infringed by Garmin (“Patents-in-Suit”): U.S.  
7 Patent No. 6,013,007 (“the ’007 patent”), U.S. Patent No. 7,088,233 (“the ’233 patent”);  
8 U.S. Patent No. 8,277,377 (“the ’377 patent”); and U.S. Patent No. 6,976,958 (“the ’958  
9 patent”).

10 53. The Patents-in-Suit derive from and/or relate to Philips’ efforts in this field  
11 of technology and claim protection for, among other things, GPS/audio athletic training,  
12 security mechanisms for transmission of personal data, connected wearable/online  
13 products, and handling of interrupted connections.

14 54. Garmin has been and is still directly infringing, jointly infringing,  
15 contributing to infringement, and/or inducing others to infringe the Patents-in-Suit by  
16 making, using, offering for sale, selling, or importing devices that practice the Patents-in-  
17 Suit. Garmin’s acts of infringement have occurred within this Judicial District and  
18 elsewhere throughout the United States.

### 19 **U.S. Patent No. 6,013,007**

20 55. The United States Patent and Trademark Office duly and legally issued the  
21 ’007 patent to inventor Gary Miller Root on January 11, 2000. The ’007 patent is titled  
22 Athlete’s GPS-Based Performance Monitor. A true and accurate copy of the ’007 patent  
23 is attached as **Exhibit A**.

24 56. Philips North America is the owner and assignee of all legal title in the ’007  
25 patent and holds the right to sue and recover damages for infringement thereof, including  
26 ongoing and past infringement.  
27  
28

1 **U.S. Patent No. 7,088,233**

2 57. The United States Patent and Trademark Office duly and legally issued the  
3 '233 patent to inventor Raymond J. Menard on August 8, 2006. The '233 patent is titled  
4 Personal Medical Device Communication System and Method. A true and accurate copy  
5 of the '233 patent is attached as **Exhibit B**.

6 58. Philips North America is the owner and assignee of all legal title in the '233  
7 patent and holds the right to sue and recover damages for infringement thereof, including  
8 ongoing and past infringement.

9 **U.S. Patent No. 8,277,377**

10 59. The United States Patent and Trademark Office duly and legally issued the  
11 '377 patent to inventor Roger J. Quy on October 2, 2012. The '377 patent is titled  
12 Method and Apparatus for Monitoring Exercise with Wireless Internet Connectivity. A  
13 true and accurate copy of the '377 patent is attached as **Exhibit C**.

14 60. Philips North America is the owner and assignee of all legal title in the '377  
15 patent and holds the right to sue and recover damages for infringement thereof, including  
16 ongoing and past infringement.

17 **U.S. Patent No. 6,976,958**

18 61. The United States Patent and Trademark Office duly and legally issued the  
19 '958 patent to inventor Roger J. Quy on December 20, 2005. The '958 patent is titled  
20 Method and Apparatus for Health and Disease Management Combining Patient Data  
21 Monitoring with Wireless Internet Connectivity. A true and accurate copy of the '958  
22 patent is attached as **Exhibit D**.

23 62. Philips North America is the owner and assignee of all legal title in the '958  
24 patent and holds the right to sue and recover damages for infringement thereof, including  
25 ongoing and past infringement.

26 **Garmin's Knowledge of Infringement**

27 63. Garmin had knowledge of each of the Patents-in-Suit as alleged herein and  
28 prior to that date was at least willfully blind to each patent and its infringement.



1 by the GPS receiver, that presents the athletic performance feedback data to an athlete,  
2 that has a modem for transmitting the athletic performance feedback data to a remote  
3 computer for comparison with athletic performance data of other athletes, and that has a  
4 headset and an audio module for presenting the athletic performance feedback data over  
5 the headset. The Accused Products are wearable fitness tracking devices that practice the  
6 claimed invention, including among other things and without limitation, by computing  
7 athletic performance feedback data from a series of time-stamped waypoints obtained by  
8 a GPS receiver, such as distance, time, pace, etc., and transmitting the athletic  
9 performance feedback data to a remote computer for comparison, and presenting the  
10 athletic performance feedback data over the headset. In some examples, Garmin provides  
11 the following:

## Your day at a glance

Garmin Connect displays your vital health data and entries for easy viewing. Customize what you want to see, in the order you want to see it.

You'll receive more detailed analysis, as well. View weekly, monthly and yearly averages of health stats, historic tracking of your favorites activities and more.



27 Source: <https://connect.garmin.com/>

28 The Accused Products further present athletic performance feedback data to an athlete,



1 for example by providing “audio prompts” to an athlete wearing the device during a  
2 fitness activity. In an example, Garmin provides the following:

### 3 **Playing Audio Prompts During Your Activity**

4 Before you can set up audio prompts, you must have a smartphone with the Garmin Connect™ Mobile app paired to your Forerunner® device.

5 You can set the Garmin Connect Mobile app to play motivational status announcements on your smartphone during a run or other activity. Audio  
6 prompts include the lap number and lap time, pace or speed, and ANT+® sensor data. During an audio prompt, the Garmin Connect mobile app  
7 mutes the primary audio of the smartphone to play the announcement. You can customize the volume levels on the Garmin Connect Mobile app.

- 8 1. From the settings in the Garmin Connect Mobile app, select **Garmin Devices**.
- 9 2. Select your device.
- 10 3. Select **Activity Options > Audio Prompts**.

11 Source: [https://www8.garmin.com/manuals/webhelp/forerunner235/EN-US/GUID-  
12 6A3A1403-F519-4990-B5C7-718E9352006D.html](https://www8.garmin.com/manuals/webhelp/forerunner235/EN-US/GUID-6A3A1403-F519-4990-B5C7-718E9352006D.html)

13 In additional examples, Garmin provides competitions:

### 14 **Garmin Connect™**

15 Your Garmin Connect account allows you to track your performance and connect with your friends. It gives you the tools to track, analyze, share,  
16 and encourage each other. You can record the events of your active lifestyle, including runs, walks, rides, swims, hikes, golf games, and more.

17 You can create your free Garmin Connect account when you pair your device with your phone using the Garmin Connect Mobile app. You can  
18 also create an account when you set up the Garmin Express™ application ([www.garmin.com/express](http://www.garmin.com/express)).

#### 19 **Store your activities**

20 After you complete and save a timed activity with your device, you can upload that activity to your Garmin Connect account and keep it as long  
21 as you want.

#### 22 **Analyze your data**

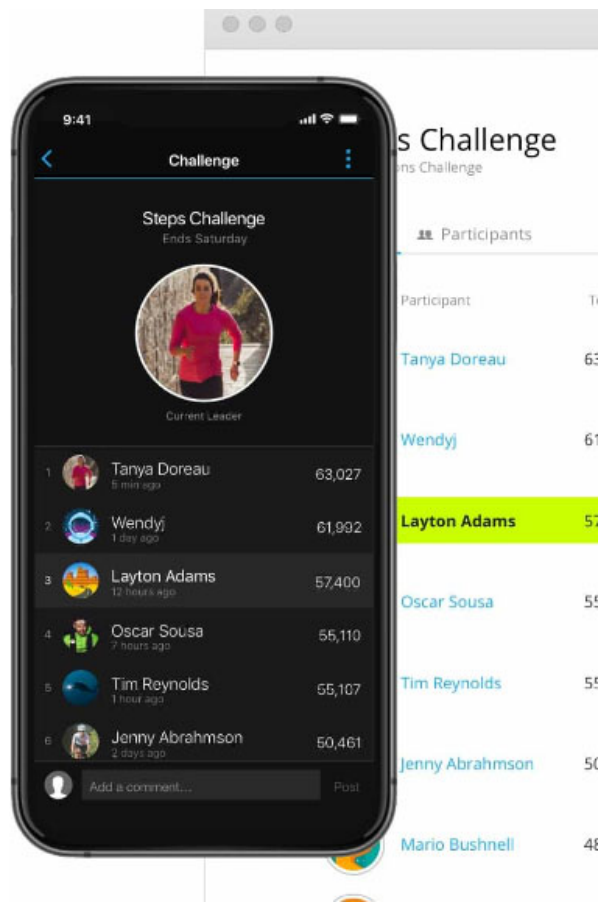
23 You can view more detailed information about your fitness and outdoor activities, including time, distance, heart rate, calories burned, cadence,  
24 an overhead map view, and pace and speed charts. You can view more detailed information about your golf games, including scorecards,  
25 statistics, and course information. You can also view customizable reports.

26 Source: [https://www8.garmin.com/manuals/webhelp/marqathlete/EN-US/GUID-  
27 FA0BDAD5-4576-4D05-B76B-A3B6712D0959.html](https://www8.garmin.com/manuals/webhelp/marqathlete/EN-US/GUID-FA0BDAD5-4576-4D05-B76B-A3B6712D0959.html)

28 Garmin also provides the following:

## Connect with Friends

Garmin Connect is better with friends. You can compete in step and distance challenges, create groups or cheer each other on with likes and comments. Our badge feature lets you earn badges for accomplishments and compare them with your friends.



Source: <https://connect.garmin.com/>

Under the direction and control of Garmin, the Accused Products and apps running online on mobile devices and connected to Garmin servers include aspects of a global positioning system GPS receiver obtaining a series of time-stamped waypoints, they compute athletic performance feedback data from the series of time-stamped waypoints obtained by the GPS receiver (e.g. time-stamped waypoints are used to compute athletic performance feedback data), they present the athletic performance feedback data to an athlete (e.g., updates presented by the Accused Products), they include a modem for transmitting the athletic performance feedback data to a remote computer for comparison with athletic performance data of other athletes (e.g., hardware and/or software implemented within the mobile device and wearable transmits data), and they include a headset and an audio module for presenting the athletic performance feedback data over said headset (e.g., Garmin provides for audio prompts that are used via headphones

1 connected to the mobile device). Thus, this hardware and the accompanying apps,  
2 servers and other software practice each and every element and directly and jointly  
3 infringe at least claim 23 of the '007 patent, literally and/or under the doctrine of  
4 equivalents.

5 70. Garmin has indirectly infringed and continues to indirectly infringe at least  
6 claim 23 of the '007 patent under 35 U.S.C. § 271, literally and/or under the doctrine of  
7 equivalents, by actively inducing its customers to sell, offer to sell, and/or use the  
8 Accused Products to directly and jointly infringe one or more claims of the '007 patent.  
9 Such infringement includes Garmin taking active steps to encourage and facilitate others'  
10 direct and joint infringement of the '007 patent with knowledge or willful blindness to  
11 that infringement. The affirmative acts include, without limitation, advertising,  
12 marketing, promoting, offering for sale and/or selling the above-identified devices, with  
13 software that includes infringing functionality, to consumers, customers, distributors,  
14 partners, resellers, and/or end users. Garmin further provides instructions, user manuals,  
15 advertising and/or marketing materials that facilitate, direct, or encourage the direct and  
16 joint infringement of one or more claims of the '007 patent by others with knowledge  
17 thereof.

18 71. Garmin has contributed to the infringement of, and continues to contribute to  
19 the infringement of, at least claim 23 of the '007 patent under 35 U.S.C. § 271, either  
20 literally and/or under the doctrine of equivalents, by selling, offering to sell, and/or  
21 importing within or into the United States the Accused Products, including those that  
22 include and/or connect to a global positioning system GPS receiver that obtains a series  
23 of time-stamped waypoints, that compute athletic performance feedback data from the  
24 series of time-stamped waypoints obtained by the GPS receiver, that present the athletic  
25 performance feedback data to an athlete, that include a modem for transmitting the  
26 athletic performance feedback data to a remote computer for comparison with athletic  
27 performance data of other athletes, and that include a headset and an audio module for  
28 presenting the athletic performance feedback data over said headset. The hardware and

1 software used to calculate and present this athletic performance feedback data constitutes  
2 a material part of the invention, is known by Garmin to be especially made or adapted for  
3 use in infringing the '007 patent, and is not a staple article or commodity of commerce  
4 that is suitable for substantial non-infringing use.

5 72. The claims of the '007 patent, when viewed as a whole, including as an  
6 ordered combination address difficult technical challenges in the field of determining and  
7 presenting athletic performance feedback for athletes. The claims of the '007 were not  
8 well known, routine, or conventional at the time of the invention, over twenty years ago,  
9 and represent specific improvements over the prior art and prior existing systems and  
10 methods.

11 73. At the time the inventions claimed in the '007 patent were conceived, there  
12 were no devices for determining athletic performance and providing athletic performance  
13 feedback utilizing time-stamped waypoints, providing comparison at a remote computer  
14 with data from other athletes, or providing athletic performance feedback over a headset.  
15 For example, outdoor runners were generally limited to wristwatches with built-in stop  
16 watches, heart rate monitors, or pedometers. *See* Ex. A, col. 1, *ll.* 24-26. In the field of  
17 navigation, dashboard mounted GPS devices for vehicles and mobile GPS devices for  
18 boating and fishing were being introduced, but the devices were limited to navigation  
19 only. *See* Ex. A, col. 1, *ll.* 39-44. While the units provided current geographic location,  
20 they did not determine or provide athletic performance feedback utilizing time-stamped  
21 waypoints, provide comparison at a remote computer with data of other athletes, or  
22 provide athletic performance feedback over a headset. *Id.* col. 1, *ll.* 47-50. They had  
23 visual displays that could only show current location and destination, and provide  
24 navigation instructions to pre-determined locations. *Id.*, col. 1, *ll.* 44-46. They did not  
25 provide athletic performance feedback over a headset or provide entertainment to the user  
26 while assisting with navigation. *Id.* col. 1, *ll.* 48-50. The GPS navigation devices also  
27 did not provide comparison at a remote computer of athletic performance data utilizing  
28 time-stamped waypoints with data of other athletes.

1           74. As such, as of the priority date of the '007 patent, there was no ready way  
2 for outdoor athletes to receive athletic performance feedback utilizing time-stamped  
3 waypoints, or to provide comparison at a remote computer with data of other athletes. *Id.*  
4 col. 1, ll. 45-62. There did not exist a way that an outdoor athlete could both compute his  
5 or her athletic performance based on time-stamped waypoints, and provide the athlete  
6 with entertainment and/or motivation while exercising. *Id.* col. 1, ll. 62-66.

7           75. The claims of the '007 patent are directed to specific improvements in  
8 computer and networking capabilities and functionality. Among other things, the  
9 claimed inventions improve functionality of personal performance devices like stop-  
10 watches, heart rate monitors, pedometers, etc., by determining and providing athletic  
11 performance feedback utilizing time-stamped waypoints, providing comparison at a  
12 remote computer with data of other athletes, or providing athletic performance feedback  
13 over a headset. The claimed inventions provide a device that continuously and  
14 consistently provides accurate, athletic performance data to an athlete and can make real-  
15 time recommendations to the athlete on how his or her performance targets can be  
16 achieved. The claimed inventions provide a device that can communicate with an athlete  
17 through audio signals, thus improving safety by reducing visual distractions and allowing  
18 the device to provide athletic performance feedback and entertainment to the athlete  
19 while exercising. The claimed inventions provide a device that can store performance  
20 data, send performance data for storage in a personal computer, and transmit data to a  
21 website, where such data can be analyzed and compared to data collected from other  
22 athletes.

23           76. The claimed inventions provide computer and network efficiently at least  
24 because they allow athletic performance devices to calculate athletic performance  
25 feedback from time-stamped waypoints, providing improved and verifiable data capture,  
26 analysis, and sharing functionality without the need to include expensive and battery  
27 consuming processors and other components. The claimed inventions improve computer  
28 efficiency by allowing for audible communication of athletic performance feedback

1 instead of relying exclusively on visual information transmitted via a screen. The  
2 inventor did more than simply apply current technology to an existing problem. The  
3 invention, as embodied in at least claim 23, was a significant advancement in athletic  
4 performance feedback devices, as well as data analysis and sharing technology utilizing  
5 such data.

6 77. These noted improvements over the prior art represent meaningful  
7 limitations and/or inventive concepts based upon the state of the art over twenty years  
8 ago. Further, including in view of these specific improvements, the inventions claimed in  
9 the '007 patent, when viewed as a whole, are not routine, well-understood, conventional,  
10 generic, existing, commonly used, well-known, previously known, or typical over twenty  
11 years ago, including because until the inventions of the claims of the '007 patent, the  
12 claimed inventions were not existing or even considered in the field.

13 78. The '007 patent, and claim 23 in particular, comprises a non-conventional  
14 and non-generic arrangement of components that is a technical improvement to the  
15 capture, storage and analysis of athletic performance data including data collected from  
16 multiple athletes, including those improvements noted above.

17 79. The inventions claimed in the '007 patent are necessarily rooted in computer  
18 technology, *i.e.*, athletic performance feedback determined and provided utilizing time-  
19 stamped waypoints, and comprise technological improvements over prior technologies in  
20 order to provide new functionality and overcome inefficiencies, including those noted  
21 above. The claimed solutions amount to an inventive concept for particular problems  
22 and inefficiencies noted above.

23 80. Garmin has had actual knowledge of the '007 patent at least by  
24 approximately February 17, 2016 by virtue of communications from Philips providing  
25 notice of the patent.

26 81. Philips North America is entitled to recover damages under 35 U.S.C. § 284  
27 to adequately compensate for Garmin's infringement. Garmin's prior and ongoing  
28 infringement is willful and deliberate, as Garmin became aware of its infringement at

1 least by approximately February 17, 2016 and prior to that date was at least willfully  
2 blind to the patent and infringement.

3 82. Garmin's conduct in infringing the '007 patent renders this case exceptional  
4 within the meaning of 35 U.S.C. § 285.

## 5 **COUNT II**

### 6 **INFRINGEMENT OF U.S. PATENT NO. 7,088,233**

7 83. The allegations of each of the foregoing paragraphs are incorporated by  
8 reference as if fully set forth herein.

9 84. The '233 patent is valid and enforceable.

10 85. Garmin, in violation of 35 U.S.C. § 271, has infringed and continues to  
11 infringe at least claim 9 of the '233 patent by making, using, offering to sell, selling,  
12 and/or importing the Accused Products that practice the claimed inventions in the '233  
13 patent, either literally or under the doctrine of equivalents, individually and/or jointly  
14 with their customers and subscribers employing their products and apps including by way  
15 of example, the Approach, Edge, Forerunner, vivofit, vivosport, vivosmart, and Fenix 5  
16 fitness tracker devices used in combination with Garmin apps running on smartphones or  
17 other devices.

18 86. The Accused Products including access to the Garmin account and  
19 operational apps and related programs are provided under the direction and control of  
20 Garmin. Garmin establishes the procedures and timing to operate the Accused Products  
21 with the Garmin account including receipt of the benefits of the Accused Products.  
22 Access to the Garmin servers is limited to customers and subscribers who download and  
23 activate the required software and apps to a smartphone or other wireless device.

24 87. The Accused Products infringe one or more claims of the '233 patent. For  
25 example, claim 9 of the '233 patent is directed to a bi-directional wireless communication  
26 system that includes a first personal device and a second device communicating with the  
27 first device. The system includes at least one detector input, the detector sensing body or  
28 physiological parameters, including parameters selected from a group consisting of

1 temperature, motion, respiration, blood oxygen content, and electroencephalogram. A  
2 security mechanism governs information transmitted between the first personal device  
3 and the second device. Garmin individually and jointly infringes claim 9 with the  
4 Accused Products including wearable fitness tracking devices (e.g., first personal device)  
5 that practice the claimed invention, without limitation, by including a security mechanism  
6 governing information transmitted between the tracking device and a Garmin app running  
7 on a smartphone or other device (e.g., second device). As for example explained by  
8 Garmin, its Garmin app runs on the smartphone or other device:

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## New device? Set it up on your phone with Garmin Connect.™

Whether you're training for a race or tracking steps, Garmin  
Connect provides the information and inspiration you need  
to beat yesterday.



21 Source: <https://connect.garmin.com/start/>

22 Gamin also provides the following:

23 [←Support Center](#)

24 [Garmin Connect App for Android Permissions Explanation](#)

25 The Garmin Connect app for Android phones will need specific permissions in order to provide your Garmin device  
26 with the full experience of features that it is capable of. In an effort to provide better transparency for these  
27 permission requests we have detailed the purpose for each below.  
28



1 Source: <https://support.garmin.com/en-US/?faq=TOmjU7rfrn9v5jjEtnWcZ5>

2 Garmin maintains direction and control of the Garmin account and the Garmin app  
3 determining practice of the claims by the Accused Products. As an example, Garmin  
4 states that:

### 5 Pairing Your Smartphone

6 You should connect your Forerunner® device to a smartphone to complete the setup and use the full features of the device.

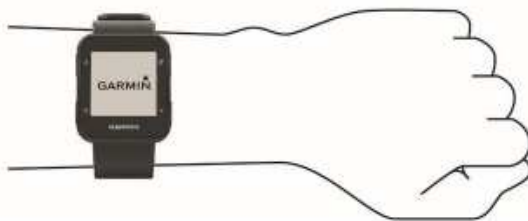
- 7 1. Go to [www.garmin.com/intosports/apps](http://www.garmin.com/intosports/apps), and download the Garmin Connect™ Mobile app to your smartphone.
- 8 2. From the Forerunner device, select **Menu > Settings > Bluetooth > Pair Mobile Device**.
- 9 3. Open the Garmin Connect Mobile app.
- 10 4. Select an option to add your device to your Garmin Connect account:
  - If this is the first device you have paired with the Garmin Connect Mobile app, follow the on-screen instructions.
  - If you have already paired another device with the Garmin Connect Mobile app, from the settings, select **Garmin Devices > Add Device**, and follow the on-screen instructions.

11 Source: <https://www8.garmin.com/manuals/webhelp/forerunner230/EN-US/GUID-F1168774-9CD0-4AE6-9590-182040858814.html>

12 Through such accounts, apps, and other software and hardware directed and controlled by  
13 Garmin, Garmin conditions participation in the activities and receipts of benefits based  
14 on performance and practice of the claims, and Garmin establishes the manner and timing  
15 of that performance and practice. The Accused Products include a detector input and one  
16 or more detectors for sensing physiological parameters such as heartrate as, for example,  
17 explained by Garmin:

### 19 Wearing the Device and Heart Rate

- 20 • Wear the Forerunner® device above your wrist bone.  
21 **NOTE:** The device should be snug but comfortable, and it should not move while running or exercising.



22 **NOTE:** The heart rate sensor is located on the back of the device.

- 23 • See ([Troubleshooting](#)) for more information about wrist-based heart rate.


24 Source: <https://www8.garmin.com/manuals/webhelp/forerunner35/EN-US/GUID->

1 [F2E7E0A9-FB44-4297-BF4D-D0C31C400C45.html](https://support.garmin.com/en-US/?faq=8CBmYmJHUr36wvJ6AktXFA).

2 In addition, the Accused Products include a security mechanism governing information  
3 transmitted between the tracking devices and the Garmin app running on a smartphone.

4 In one instance, for example, Garmin instructs that:

5 **Steps to add a device to the Garmin Connect App:**

- 6 1. From the smartphone, access the Menu option in the Garmin Connect App:
- 7 ◦ **Android:** Select  (upper left corner)
  - 8 ◦ **Apple:** Select **More** (bottom right corner)
- 9 2. Scroll down and select **Garmin Devices**.
- 10 3. Select **Add Device**
- 11 4. Choose your device
- 12 5. From your Garmin device, place it into Pairing Mode. This allows the device to broadcast a Bluetooth signal  
13 allowing Garmin Connect App to find it. This setting is typically found under Settings > Bluetooth or Phone > Pair  
14 Mobile Device or Pair Phone. Refer to your [Owner's Manual](#) for specific steps.
- 15 6. From the Garmin Connect app select **Start** or **Connect It** depending on the device.
- 16 7. Input the six-digit code from the Garmin device into the prompt on the smartphone.

17 Follow the onscreen prompts to complete the setup of your device. A data sync should occur during this process  
18 and your Garmin device should display a green dot from the My Day view of the Garmin Connect App indicating a  
19 connection with your Smartphone.

20 Source: <https://support.garmin.com/en-US/?faq=8CBmYmJHUr36wvJ6AktXFA>

21 Additional devices (e.g., phones and tablets) can be paired with a Garmin tracking  
22 device, but will only receive access to transmitted data by logging into the Garmin app  
23 (providing security keys) and selecting the proper access options. When operated under  
24 the direction and control of Garmin, the Accused Products and apps running online on  
25 mobile devices include a first personal device comprising a processor, a memory, a  
26 power supply, at least one detector input that includes a detector for sensing body or  
27 physiological parameters and a short range bi-directional wireless communication  
28 module (e.g., the Accused Products include a detector for detecting at least motion and  
heartrate and communicating wirelessly with the Garmin app on a smartphone), a second  
device communicating with the first device, the second device having a short-range bi-  
directional wireless communications module compatible with the short-range bi-

1 directional wireless communications module of the first device (e.g., the Garmin app  
2 communicates wirelessly with the Accused Products), and a security mechanism  
3 governing information transmitted between the first personal device and the second  
4 personal device (e.g., Garmin security mechanism governs transfer of information).  
5 Thus, this hardware and the accompanying apps and other software practice each and  
6 every element and directly and jointly infringe at least claim 9 of the '233 patent, literally  
7 and/or under the doctrine of equivalents.

8 88. Garmin has indirectly infringed and continues to indirectly infringe at least  
9 claim 9 of the '233 patent under 35 U.S.C. § 271, literally and/or under the doctrine of  
10 equivalents, by actively inducing its customers to sell, offer to sell, and/or use the  
11 Accused Products to directly and jointly infringe one or more claims of the '233 patent.  
12 This includes Garmin taking active steps to encourage and facilitate others' direct and  
13 joint infringement of the '233 patent with knowledge of or willful blindness to that  
14 infringement. The affirmative acts include, without limitation, advertising, marketing,  
15 promoting, offering for sale and/or selling the above-identified devices, with software  
16 that includes infringing functionality, to consumers, customers, distributors, partners,  
17 resellers, and/or end users. Garmin further provides instructions, user manuals,  
18 advertising and/or marketing materials that facilitate, direct, or encourage the direct and  
19 joint infringement of one or more claims of the '233 patent by end users with knowledge  
20 thereof.

21 89. Garmin has contributed to the infringement of, and continues to contribute to  
22 the infringement of, at least claim 9 of the '233 patent under 35 U.S.C. § 271, either  
23 literally and/or under the doctrine of equivalents, by selling, offering to sell, and/or  
24 importing within or into the United States the Accused Products, including those that  
25 include at least one detector input and a detector for sensing body or physiological  
26 parameters, including heartrate and/or motion, and a security mechanism governing  
27 information transmitted between the tracking devices and the Garmin app running on a  
28 smartphone. The hardware and software used to detect body or physiological parameters

1 and a security mechanism governing information transmitted between the tracking  
2 devices and the Garmin app running on a smartphone constitute a material part of the  
3 invention, are known by Garmin to be especially made or adapted for use in infringing  
4 the '233 patent, and are not a staple article or commodity of commerce that is suitable for  
5 substantial non-infringing use.

6 90. The claims of the '233 patent, when viewed as a whole, including as an  
7 ordered combination, address difficult technical challenges in the field of personal and  
8 health communication systems and methods. The claims of the '233 patent were not well  
9 known, routine, or conventional at the time of the invention, nearly twenty years ago, and  
10 represent specific improvements over the prior art and prior existing systems and  
11 methods.

12 91. At the time the inventions claimed in the '233 patent were conceived, it was  
13 nearly impossible to obtain real-time health information from health monitoring devices  
14 in relation to individuals outside of a hospital or other clinical setting. Devices that could  
15 monitor individual or combinations of bodily functions were known and included heart  
16 rate monitors, respiration monitors, body chemistry, and muscular/skeletal action, etc.  
17 *See Ex. B, col. 1, ll. 62 to col. 2, ll. 5.* However, such devices were limited because they  
18 were not friendly to mobile users, interoperable with wireless devices, and unsecure in  
19 their transmission of information. It was not possible for the individual or others to  
20 securely access health information from the devices for remote monitoring, diagnosis or  
21 intervention. *Id. col. 2, ll. 12-22.*

22 92. As such, as of the priority date of the '233 patent, bi-directional wireless  
23 communication systems were not available for interconnecting a personal device, having  
24 a detector input, and communicating with another device, where a security mechanism  
25 governed information transmitted between the devices to securely transmit body or  
26 physiologic parameters for monitoring and/or analysis. *Id. col. 1, ll. 59-62.*

27 93. The claims of the '233 patent are directed to specific improvements in  
28 computer and networking capabilities and functionality. Among other things, the

1 claimed inventions improve functionality of monitoring devices by enabling remote  
2 monitoring of vital signs or other physiological parameters. The claimed inventions  
3 provide a monitoring device which monitors body or physiological parameters such as  
4 temperature, motion, respiration, blood oxygen contents, and electroencephalogram, and  
5 allows for a security mechanism governing information transmitted between monitoring  
6 device and another network enabled device facilitating the secure transmission of  
7 information concerning those body or physiological parameters. The claimed invention  
8 allows for the continuous and secure monitoring and transmission of health information  
9 from a monitoring device to a second device such as a mobile phone.

10 94. The claimed inventions also provide computer and network efficiently at  
11 least because they allow monitoring devices to easily and securely transfer information to  
12 a second device. The inventor did more than simply apply current technology to an  
13 existing problem. The invention, as embodied in at least claim 9, was a significant  
14 advancement in the utility of monitoring devices, as well as in technology related to the  
15 security of physiological information for remote diagnosis or other analysis.

16 95. These noted improvements over the prior art represent meaningful  
17 limitations and/or inventive concepts based upon the state of the art approximately twenty  
18 years ago. Further, including in view of these specific improvements, the inventions  
19 claimed in the '233 patent, when viewed as a whole, are not routine, well-understood,  
20 conventional, generic, existing, commonly used, well-known, previously known, or  
21 typical over twenty years ago, including because until the inventions of the claims of the  
22 '233 patent, the claimed inventions were not existing or even considered in the field.

23 96. The '233 patent, and claim 9 in particular, comprises a non-conventional and  
24 non-generic arrangement of components that is a technical improvement to the capture,  
25 secure transmission, storage, and analysis of physiological data, including data collected  
26 from an individual and provided to one or more others, including those improvements  
27 noted above.  
28



1 running on smartphones or other devices used in combination with Garmin apps running  
2 on smartphones or other devices.

3 104. The Accused Products including access to the Garmin account and  
4 operational apps and related programs are provided under the direction and control of  
5 Garmin. Garmin establishes the procedures and timing to operate the Accused Products  
6 with the Garmin account including receipt of the benefits of the Accused Products.  
7 Access to the Garmin servers is limited to customers and subscribers that download and  
8 activate the required software and apps on to a smartphone or other wireless device.

9 105. The Accused Products infringe one or more claims of the '377 patent. For  
10 example, claim 6 of the '377 patent is directed to performance of an interactive method of  
11 exercise monitoring. The method generally includes the steps of downloading an  
12 application to a web-enabled wireless phone directly from a remote server over the  
13 internet, coupling the web-enabled wireless phone to a device which provides exercise-  
14 related information, rendering a user interface, using the application, receiving data  
15 indicating a physiological status, using the application, receiving data indicating an  
16 amount of exercise performed, wherein the data indicating a physiologic status of a  
17 subject is received from the device at least partially while the subject is exercising,  
18 sending the exercise-related information to an internet server, and then receiving a  
19 calculated response from the server, the response associated with a calculation performed  
20 by the server based on the exercise-related information, the web-enabled wireless phone  
21 receives exercise-related information over a transmission medium including a wireless  
22 connection of radio frequency communication protocol with a short-range wireless  
23 transmission scheme in the band of 2400-2480 MHz. The Accused Products include  
24 wearable fitness tracking devices that, when used with the accompanying Garmin  
25 application, server and other software, practice the claimed invention, without limitation,  
26 by receiving exercise related information to the user's smartphone from the Accused  
27 Products while the user is exercising that includes data such as pace and distance  
28 traveled, calculating a response, such as based on daily activity, exercise goals or other

1 parameters, and displaying that response on a smartphone using the application. As for  
2 example explained by Garmin, its Garmin app runs on the smartphone or other device  
3 after being downloaded:

## 4 5 New device? Set it up on 6 your phone with Garmin 7 Connect.™

8  
9 Whether you're training for a race or tracking steps, Garmin  
10 Connect provides the information and inspiration you need  
11 to beat yesterday.



15  
16 Source: <https://connect.garmin.com/start/>

17 Gamin also provides the following:

18 [←Support Center](#)

19 Garmin Connect App for Android Permissions Explanation

20  
21 The Garmin Connect app for Android phones will need specific permissions in order to provide your Garmin device  
22 with the full experience of features that it is capable of. In an effort to provide better transparency for these  
23 permission requests we have detailed the purpose for each below.

24 Source: <https://support.garmin.com/en-US/?faq=TOmjU7rfrn9v5jjEtnWcZ5>

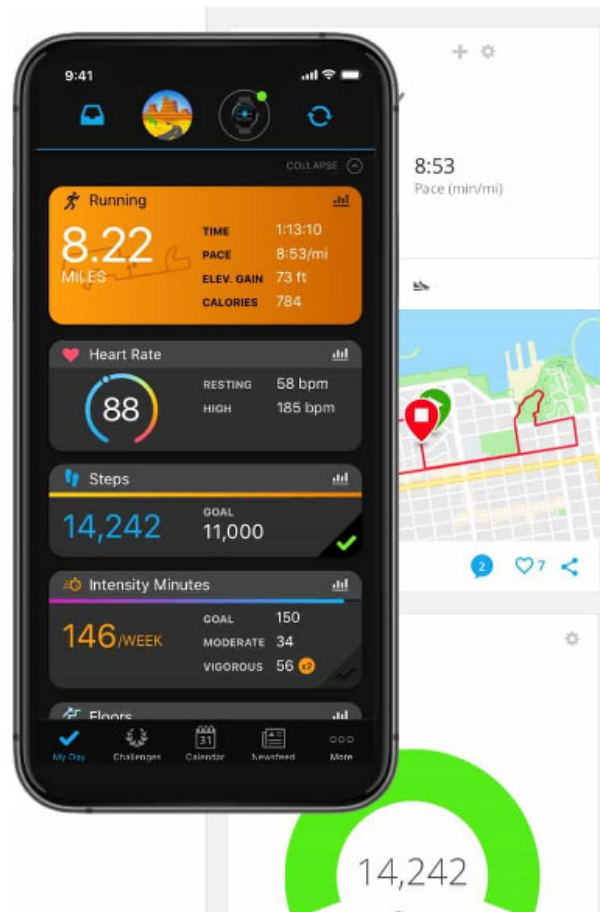
25 Garmin further provides:



## Your day at a glance

Garmin Connect displays your vital health data and entries for easy viewing. Customize what you want to see, in the order you want to see it.

You'll receive more detailed analysis, as well. View weekly, monthly and yearly averages of health stats, historic tracking of your favorites activities and more.



Source: <https://connect.garmin.com/>

Garmin also provides that:

[<Support Center](#)

### Steps to Create a Weight Goal in Garmin Connect

Weight goals in Garmin Connect can be used for either weight loss or weight gain. Anytime the current weight value crosses the weight goal value it will consider the goal as achieved and display a check mark on the graph.

#### To create a weight goal in Garmin Connect Web:

1. Sign into [Garmin Connect](#) from a personal computer
2. Click the **Arrow Icon** in the upper left corner to expand the Navigation Bar (if not already expanded)
3. Click **Health Stats**
4. Click **Weight**
5. Click **Add Goal**
6. Enter desired weight
7. Click **Confirm** (check mark)

**NOTE:** If a weight already exists, you can edit or remove it under the Goal section

Source: <https://support.garmin.com/en-US/?faq=M9kpib7hnC4Qm0Q8qcs1F7>

In other examples, Garmin explains that the user interface may be utilized to change the

1 calculations:

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### 2 To add a weight goal or change weight in Garmin Connect App:

- 3 1. Open the Garmin Connect App
- 4 2. Touch **More** in the Bottom Right (iOS) or **≡** in the Top Left (Android)
- 5 3. Touch **Health Stats**
- 6 4. Touch **Weight**
- 7 5. Touch **+** in the Top Right
- 8 6. Touch **Add Weight**
- 9 7. Enter in the new desired weight or goal
- 10 8. Touch **Save**

11 Source: <https://support.garmin.com/en-US/?faq=M9kpib7hnc4Qm0Q8qcs1F7>

12 In another aspect, Garmin provides the following:

#### 13 Marking Laps by Distance

14 You can use the Auto Lap<sup>®</sup> feature to mark a lap at a specific distance automatically. This feature is helpful for comparing your performance over different parts of a run (for example, every 1 mi. or 5 km).

- 15 1. Select **Menu > Activity Settings > Laps > Auto Distance**.
- 16 2. Select a distance.

17 Each time you complete a lap, a message appears that displays the time for that lap. The device also beeps or vibrates if audible tones are turned on ([Setting the Device Sounds](#)).

18 If necessary, you can customize the data screens to display additional lap data.

19 Source: <https://www8.garmin.com/manuals/webhelp/forerunner230/EN-US/GUID-F9BAD725-FA23-4606-8625-67E98DB34EE6.html>

20 Garmin also provides for the ability to track overall cardiovascular fitness:

21 [←Support Center](#)

#### 22 Understanding What VO2 Max. Estimate Is

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23 If you have a Garmin device that provides a VO2 Max. Estimate, you can track your overall cardiovascular fitness directly from the device and from the Garmin Connect app.

24 Source: <https://support.garmin.com/en-US/?faq=1WqSVlq3w76z5WoihLy5f8>

1 On the device, your VO2 max. estimate appears as a number, description, and position on the color gauge. On your Garmin Connect™ account, you can view additional details about your VO2  
2 max. estimate, including your fitness age. Your fitness age gives you an idea of how your fitness compares with a person of the same gender and different age. As you exercise, your fitness age  
3 can decrease over time.



4  
5  
6 Source: [https://www8.garmin.com/manuals/webhelp/fenix5/EN-US/GUID-3E971364-](https://www8.garmin.com/manuals/webhelp/fenix5/EN-US/GUID-3E971364-A756-4057-B22D-C41250B2A82B.html)  
7 [A756-4057-B22D-C41250B2A82B.html](https://www8.garmin.com/manuals/webhelp/fenix5/EN-US/GUID-3E971364-A756-4057-B22D-C41250B2A82B.html). Under the direction and control of Garmin, the

8 use of the Garmin app combined with a user's smartphone, an accompanying Garmin  
9 activity tracker, including other software and Garmin servers, practices the steps of  
10 downloading an application to a web-enabled wireless phone directly from a remote  
11 server over the internet (e.g., the Garmin server is loaded with the Garmin app controlled  
12 by Garmin), coupling the web-enabled wireless phone to a device which provides  
13 exercise-related information (e.g., the Accused Products couple to a smartphone),  
14 rendering a user interface on the web-enabled wireless phone (e.g., the Garmin app  
15 includes a user interface for presentation), using the application, receiving data indicating  
16 a physiologic status of a subject (e.g., the Garmin app receives physiological status such  
17 as heartrate and other data), using the application, receiving data indicating an amount of  
18 exercise performed by the subject (e.g., the Garmin app receives data on amount of  
19 exercise of the subject), wherein at least one of the data indicating a physiologic status of  
20 a subject or the data indicating an amount of exercise performed by the subject is  
21 received from the device which provides exercise-related information, and wherein the  
22 data indicating a physiologic status of a subject is received at least partially while the  
23 subject is exercising (e.g., the Accused Products includes a wearable device providing  
24 heartrate and other exercise information to a smartphone during exercise), sending the  
25 exercise-related information to an internet server via a wireless network (e.g., the Garmin  
26 app and Accused Products communicate to the Garmin server), receiving a calculated  
27 response from the server the response associated with a calculation performed by the  
28

1 server based on the exercise-related information (e.g., the Garmin server performs  
2 calculations such as related to weight goals and overall cardiovascular fitness based on  
3 the exercise-related information and sends it to the Accused Products including the  
4 Garmin app on a smartphone), using the application, displaying the response (e.g., the  
5 response may be viewed on the Accused Products including the user interface of the  
6 Garmin app). Further, the web-enabled wireless phone receives exercise-related  
7 information over a transmission medium, the transmission medium including a wired  
8 connection or a wireless connection (e.g., the transmission of data from the Accused  
9 Products to the Garmin app is done wirelessly), and wherein the wireless connection  
10 includes an infrared connection of a radio frequency communication protocol including a  
11 short-range wireless transmission scheme (e.g., the Accused Products transmit using  
12 Bluetooth), and wherein the short-range wireless transmission scheme includes  
13 IEEE802.11 protocol or short-wavelength radio transmission in the ISM band of 2400-  
14 2480 (e.g., the Accused Products transmit using Bluetooth). Thus, this hardware and the  
15 accompanying Garmin apps and software practice each and every element and directly  
16 and jointly infringe at least claim 6 of the '377 patent, literally and/or under the doctrine  
17 of equivalents.

18 106. Garmin has indirectly infringed and continues to indirectly infringe at least  
19 claim 6 of the '377 patent under 35 U.S.C. § 271, literally and/or under the doctrine of  
20 equivalents, by actively inducing its customers to sell, offer to sell, and/or use the  
21 Accused Products to directly and jointly infringe one or more claims of the '377 patent.  
22 This includes Garmin taking active steps to encourage and facilitate others' direct and  
23 joint infringement of the '377 patent with knowledge or willful blindness to that  
24 infringement. The affirmative acts include, without limitation, advertising, marketing,  
25 promoting, offering for sale and/or selling the above-identified devices, with software  
26 that includes infringing functionality, to consumers, customers, distributors, partners,  
27 resellers, and/or end users. Garmin further provides instructions, user manuals,  
28 advertising and/or marketing materials that facilitate, direct, or encourage the direct and

1 joint infringement of one or more claims of the '377 patent by others with knowledge  
2 thereof.

3 107. Garmin has contributed to the infringement of, and continues to contribute to  
4 the infringement of, at least claim 6 of the '377 patent under 35 U.S.C. § 271, either  
5 literally and/or under the doctrine of equivalents, by selling, offering to sell, and/or  
6 importing within or into the United States the Accused Products that, when used with the  
7 accompanying Garmin application, software and server, enable the user's smartphone to  
8 download an application to a web-enabled wireless phone directly from a remote server  
9 over the internet, couple the web-enabled wireless phone to a device which provides  
10 exercise-related information, receive exercise related information from the user, calculate  
11 a response, and display that response on a smartphone using the application. The  
12 hardware and software used to receive exercise-related information, calculate the  
13 response, and display that response constitutes a material part of the invention, is known  
14 by Garmin to be especially made or adapted for use in infringing the '377 patent, and is  
15 not a staple article or commodity of commerce that is suitable for substantial non-  
16 infringing use.

17 108. The claims of the '377 patent, when viewed as a whole, including as an  
18 ordered combination, address difficult technical challenges in health monitoring of  
19 persons utilizing computer and networking capabilities and functionality. The claimed  
20 inventions were not well known, routine, or conventional at the time of the invention,  
21 nearly twenty years ago, and represent specific improvements over the prior art and prior  
22 existing systems and methods.

23 109. At the time the inventions claimed in the '377 patent were conceived,  
24 systems for monitoring personal health were expensive and inefficient. Prior to the '377  
25 patent, medical or health information could be stored on computer media such as a  
26 compact disk and could thereby be accessed on a home computer system. Ex. C, col. 1,  
27 *ll.* 54-56. However, this passive approach to the communication of health or medical  
28 information was difficult to set up for many individuals, it was expensive, and its

1 interactivity was limited to the information stored on the computer media. *Id.* col. 1, *ll.*  
2 55-67. Later systems were based on video game consoles or multimedia players using a  
3 conventional television screen, but these devices were limited in their portability and  
4 interactivity. *Id.* col. 2, *ll.* 8-14. Attempts were made to address these deficiencies, but  
5 those systems required specialized connections with the health monitoring system, and  
6 they required significant modification to the hardware. *Id.* col. 2, *ll.* 27-40. Prior art  
7 systems lacked full back-end server functionality in which to provide a wide range of  
8 interactive communication. *Id.* col. 2, *ll.* 41-45.

9 110. As such, as of the priority date of the '377 patent, there was no full feature,  
10 real-time health monitoring system that could connect wirelessly to a back-end server  
11 application via the internet. *Id.* col. 2, *ll.* 55-58. There did not exist a system for  
12 allowing wireless access to and from multiple health-related devices, while maintaining  
13 the capability to connect to other devices in the future. *Id.* col. 2, *ll.* 60-63.

14 111. The claims of the '377 patent – and, in particular, claim 6 – are directed to  
15 specific improvements in health monitoring of persons utilizing computer and networking  
16 capabilities and functionality. Among other things, the claimed inventions provide for  
17 downloading an application from a remote server to a wireless device to improve  
18 functionality of health monitoring devices by enabling coupling to monitoring of data  
19 indicating the physiologic status of a subject and/or exercise-related information, and  
20 allowing for the calculation of responses to that information from the server. The  
21 claimed inventions provide a device which continuously and accurately monitors the  
22 physiologic status of a subject while the subject is exercising. The claimed inventions  
23 provide a device which allows exercise-related information that is collected to be  
24 analyzed and for a calculated response to be received based on the exercise related  
25 information. The claimed inventions provide a system that can perform real-time health-  
26 monitoring functions and wirelessly communicate exercise-related information and  
27 responses associated with calculations performed based on that information to a mobile  
28 phone.

1           112. The claimed inventions provide network efficiently at least because they  
2 allow the downloading of applications in connection with health monitoring devices to  
3 perform improved data capture, sharing, and analysis functions without the need for  
4 complex connections or expensive additional components. The inventor did more than  
5 simply apply current technology to an existing problem. The invention, as embodied in  
6 at least claim 6, was a significant advancement in the performance of health monitoring  
7 devices, the downloading of applications, as well as data analysis and sharing technology  
8 using full back-end server functionality.

9           113. These noted improvements over the prior art represent meaningful  
10 limitations and/or inventive concepts based upon the state of the art nearly twenty years  
11 ago. Further, including in view of these specific improvements, the inventions claimed in  
12 the '377 patent, when viewed as a whole, are not routine, well-understood, conventional,  
13 generic, existing, commonly used, well-known, previously known, or typical nearly  
14 twenty years ago, including because until the inventions of the claims of the '377 patent,  
15 the claimed inventions were not existing or even considered in the field.

16           114. The '377 patent, and claim 6 in particular, comprises a non-conventional and  
17 non-generic arrangement of components that is a technical improvement to the capture  
18 and analysis of physiologic status and exercise related information, including those  
19 improvements noted above.

20           115. The inventions claimed in the '377 patent are necessarily rooted in computer  
21 technology, *i.e.* the monitoring and analysis of physiologic status and exercise-related  
22 information and the wireless transmission of that information to a mobile phone, and  
23 comprise technological improvements over prior technologies in order to provide new  
24 functionality and overcome inefficiencies, including those noted above. The claimed  
25 solutions amount to an inventive concept for particular problems and inefficiencies noted  
26 above.

1 116. Garmin has had actual knowledge of the '377 patent at least by  
2 approximately December 8, 2016, by virtue of communications from Philips providing  
3 notice of the patent.

4 117. Philips North America is entitled to recover damages under 35 U.S.C. § 284  
5 to adequately compensate for Garmin's infringement. Garmin's prior and ongoing  
6 infringement is willful and deliberate, as Garmin became aware of its infringement at  
7 least by approximately December 8, 2016 and prior to that date was at least willfully  
8 blind to the patent and infringement.

9 118. Garmin's conduct in infringing the '377 patent renders this case exceptional  
10 within the meaning of 35 U.S.C. § 285.

#### 11 **COUNT IV**

#### 12 **INFRINGEMENT OF U.S. PATENT NO. 6,976,958**

13 119. The allegations of each of the foregoing paragraphs are incorporated by  
14 reference as if fully set forth herein.

15 120. The '958 patent is valid and enforceable.

16 121. Garmin, in violation of 35 U.S.C. § 271, has infringed and continues to  
17 infringe at least claim 17 of the '958 patent by making, using, offering to sell, selling,  
18 and/or importing the Accused Products that practice the claimed inventions in the '377  
19 patent, either literally or under the doctrine of equivalents, either individually and/or  
20 jointly with their customers and subscribers employing their online products and apps  
21 including by way of example the Approach, Edge, Forerunner, vivofit, vivosport,  
22 vivosmart, and Fenix 5 fitness tracker devices used in combination with Garmin apps  
23 running on smartphones or software or other devices used in combination with Garmin  
24 apps running on smartphones or other devices.

25 122. Claim 17 of the '958 patent is generally directed to an internet-enabled  
26 wireless web device connected to a server where the wireless web device is running an  
27 application, the application functioning to accept inputs from a first communications port  
28 including a generic input/output port for receipt of a health parameter from a health



1 monitoring device, the health parameter corresponding to a patient's disease state or  
2 condition. The application also functions with a second communications port including a  
3 wireless link to a network. In the event of an interruption of the wireless connection  
4 between the internet-enabled wireless web device and the server, the internet-enabled  
5 wireless web device is configured to store the health parameter in a memory or on the  
6 removable memory device wherein the internet-enabled wireless device is a mobile  
7 phone. The Accused Products include wearable fitness tracking devices that, when used  
8 with the accompanying Garmin application, server and other software, practice the  
9 claimed invention, for example without limitation, by storing the health parameter in a  
10 memory of a user's smartphone in the event of an interruption of the wireless connection  
11 between the internet-enabled wireless web device and the server. As for example  
12 explained by Garmin, the Garmin app runs on the smartphone or other device after being  
13 downloaded:

14  
15 **New device? Set it up on**  
16 **your phone with Garmin**  
17 **Connect.™**

18 Whether you're training for a race or tracking steps, Garmin  
19 Connect provides the information and inspiration you need  
20 to beat yesterday.



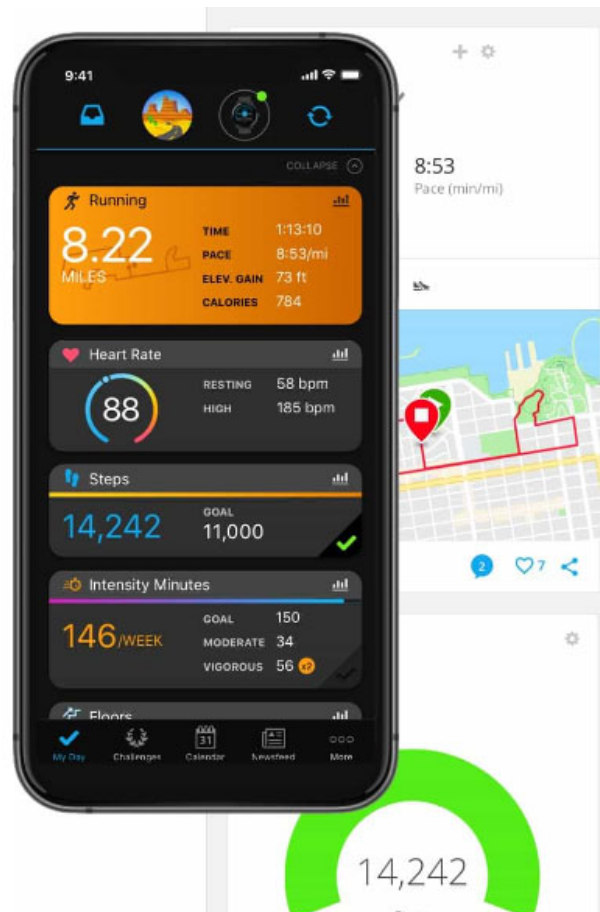
23  
24  
25 Source: Source: <https://connect.garmin.com/start/>

26 Garmin further provides:  
27  
28

## Your day at a glance

Garmin Connect displays your vital health data and entries for easy viewing. Customize what you want to see, in the order you want to see it.

You'll receive more detailed analysis, as well. View weekly, monthly and yearly averages of health stats, historic tracking of your favorites activities and more.



Source: <https://connect.garmin.com/>

Gamin also provides the following:

[←Support Center](#)

### Garmin Connect App for Android Permissions Explanation

The Garmin Connect app for Android phones will need specific permissions in order to provide your Garmin device with the full experience of features that it is capable of. In an effort to provide better transparency for these permission requests we have detailed the purpose for each below.

Source: <https://support.garmin.com/en-US/?faq=TOmjU7rfrn9v5jjEtnWcZ5>

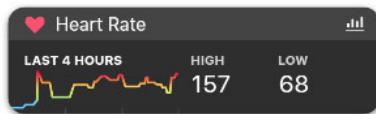
Garmin also provides real-time data feeds, for example:

[←Support Center](#)

## Understanding How Heart Rate Data Displays in the Garmin Connect App

The Garmin Connect App displays heart rate information from the My Day view one of two ways depending on the model of device:

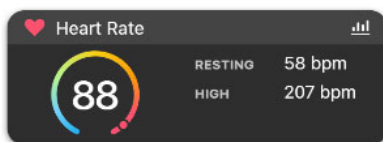
Early generation optical heart rate devices will display a 4-hour heart rate graph card in Garmin Connect App:



Devices include:

- Forerunner 225/235/30/35/735XT
- vivoactive HR
- vivosmart HR/HR+

All other Garmin devices that feature newer Elevate heart rate technology will display a real-time heart rate graph card\*:



- Remaining wearables not referenced above will display the real-time heart rate card.

Source: <https://support.garmin.com/en-IN/?faq=dLag82HPPk014T2tRELSgA>.

If the internet connection is lost between the server and the smartphone during real-time, live, or other connections, the data is preserved on the smartphone and then synced to the server once the connection is reestablished. Under the direction and control of Garmin, the use of the Garmin app combined with a user's smartphone, an accompanying Garmin activity tracker, including other software and Garmin servers, practices providing an internet-enabled wireless web device with a removable memory device (e.g., a smartphone) and running an application (e.g., the Garmin application), the application functioning to accept inputs from a first communications port (e.g., Bluetooth) and a second communications port (e.g., wireless modem), the first communications port including a generic input/output port and the second communications port including a wireless link to a network (e.g., to the Garmin server), the generic input/output port for receipt of a health parameter from a health monitoring device (e.g., heart rate, etc.) or visual data from a digital camera, the health parameter or visual data corresponding to a

1 patient's disease state or condition; where in the event of an interruption of the wireless  
2 connection between the internet enabled wireless web device (e.g., the smartphone) and  
3 the server (e.g., the Garmin server), the internet-enabled wireless web device is  
4 configured to store the health parameter or visual data in a memory or on the removable  
5 memory device (e.g. the heart rate or other data is stored), wherein the internet-enabled  
6 wireless device is selected from the group consisting of an internet-enabled mobile  
7 phone. Thus, this hardware and the accompanying Garmin apps and software practice  
8 each and every element and directly and jointly infringe at least claim 17 of the '958  
9 patent, literally and/or under the doctrine of equivalents.

10 123. Garmin has indirectly infringed and continues to indirectly infringe at least  
11 claim 17 of the '958 patent under 35 U.S.C. § 271, literally and/or under the doctrine of  
12 equivalents, by actively inducing its customers to sell, offer to sell, and/or use the  
13 Accused Products to directly and jointly infringe one or more claims of the '958 patent.  
14 This includes Garmin taking active steps to encourage and facilitate others' direct and  
15 joint infringement of the '958 patent with knowledge or willful blindness to that  
16 infringement. The affirmative acts include, without limitation, advertising, marketing,  
17 promoting, offering for sale and/or selling the above-identified devices, with software  
18 that includes infringing functionality, to consumers, customers, distributors, partners,  
19 resellers, and/or end users. Garmin further provides instructions, user manuals,  
20 advertising and/or marketing materials that facilitate, direct, or encourage the direct and  
21 joint infringement of one or more claims of the '958 patent by others with knowledge  
22 thereof.

23 124. Garmin has contributed to the infringement of, and continues to contribute to  
24 the infringement of, at least claim 17 of the '958 patent under 35 U.S.C. § 271, either  
25 literally and/or under the doctrine of equivalents, by selling, offering to sell, and/or  
26 importing within or into the United States the Accused Products that, when used with the  
27 accompanying Garmin application, enable an internet-enabled wireless web device  
28 connected to a server where the wireless web device is running an application, the

1 application functioning to accept inputs from a first communications port including a  
2 generic input/output port for receipt of a health parameter from a health monitoring  
3 device, the health parameter corresponding to a patient's disease state or condition. The  
4 application also functions with a second communications port including a wireless link to  
5 a network. In the event of an interruption of the wireless connection between the  
6 internet-enabled wireless web device and the server, the internet-enabled wireless web  
7 device is configured to store the health parameter in a memory or on the removable  
8 memory device wherein the internet-enabled wireless device is a mobile phone. The  
9 hardware and software used in this manner is known by Garmin to be especially made or  
10 adapted for use in infringing the '958 patent, and is not a staple article or commodity of  
11 commerce that is suitable for substantial non-infringing use.

12 125. The '958 patent is related to the '377 patent and paragraphs 108-111 are  
13 incorporated herein concerning the background to the patented technology. The claims  
14 of the '958 patent, when viewed as a whole, including as an ordered combination, address  
15 difficult technical challenges in health monitoring of persons utilizing computer and  
16 networking capabilities and functionality. The claimed inventions were not well known,  
17 routine, or conventional at the time of the invention, nearly twenty years ago, and  
18 represent specific improvements over the prior art and prior existing systems and  
19 methods.

20 126. The claims of the '958 patent – and, in particular claim 17 – are directed to  
21 specific improvements in health monitoring of persons utilizing networking capabilities  
22 and functionality. Among other things, the claimed inventions improve functionality of  
23 health monitoring devices by enabling for the preservation and storage of health  
24 information in the event of an interruption of the wireless connection between the  
25 internet-enabled wireless web device and the server. The claimed inventions provide a  
26 system which continuously and accurately monitors the health parameter of a subject  
27 without the need for a continuous connection between internet-enabled wireless web  
28 device and the server. The claimed inventions provide for an application functioning to

1 accept inputs from a health monitoring device and wirelessly transmit to a server. In the  
2 event of an interruption in the wireless connection between the mobile phone and the  
3 server, the internet-enabled wireless web device is configured to store the health  
4 information in a memory.

5 127. The claimed inventions provide network and communication efficiently at  
6 least because they allow health monitoring devices to perform without the need for a  
7 continuous connection between an internet-enabled wireless web device and a server.  
8 The inventor did more than simply apply current technology to an existing problem. The  
9 invention, as embodied in at least claim 17, was a significant advancement in the  
10 performance of health monitoring devices.

11 128. These noted improvements over the prior art represent meaningful  
12 limitations and/or inventive concepts based upon the state of the art nearly twenty years  
13 ago. Further, including in view of these specific improvements, the inventions claimed in  
14 the '958 patent, when viewed as a whole, are not routine, well-understood, conventional,  
15 generic, existing, commonly used, well-known, previously known, or typical nearly  
16 twenty years ago, including because until the inventions of the claims of the '958 patent,  
17 the claimed inventions were not existing or even considered in the field.

18 129. The '958 patent, and claim 17 in particular, comprises a non-conventional  
19 and non-generic arrangement of components that is a technical improvement to the  
20 capture and analysis of health parameters or information corresponding to a patient's  
21 disease state or condition, including those improvements noted above.

22 130. The inventions claimed in the '958 patent are necessarily rooted in computer  
23 technology, *i.e.* the monitoring of health parameters or information corresponding to a  
24 patient's disease state or condition using an internet-enabled wireless web device and a  
25 server, and comprise technological improvements over prior technologies in order to  
26 provide new functionality and overcome inefficiencies, including those noted above.  
27 The claimed solutions amount to an inventive concept for particular problems and  
28 inefficiencies noted above.



1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully requests the Court to enter judgment as follows:

3 (a) a judgment that Defendants have directly and jointly infringed, indirectly  
4 infringed, induced others to infringe and/or contributed to others' infringement of one or  
5 more claims of each of the Patents-in-Suit;

6 (b) a permanent injunction under 35 U.S.C. § 283, enjoining Defendants and their  
7 officers, directors, agents, servants, affiliates, employees, subsidiaries, parents, licensees,  
8 assigns, and customers, and all others acting in concert or participation with them, from  
9 further acts of direct and joint infringement, inducing infringement, and/or contributing to  
10 infringement of the Patents-in-Suit;

11 (c) a judgment against Defendants for money damages sustained as a result of  
12 Defendants' infringement of the Patents-in-Suit in an amount to be determined at trial  
13 provided under 35 U.S.C. § 284, including enhanced damages due to, for example,  
14 Defendants' willful infringement of the Patents-in-Suit and its intentional and willful  
15 blindness;

16 (d) an accounting for infringing sales not presented at trial and an award by the  
17 Court of additional damages for any such infringing sales;

18 (e) an award of pre-judgment and post-judgment interest on the damages caused by  
19 Defendants' infringing activities and other conduct complained of herein;

20 (f) a finding that this case is an exceptional case under 35 U.S.C. § 285;

21 (g) an award of reasonable attorneys' fees and costs incurred in connection with  
22 this action;

23 (h) a compulsory future royalty;

24 (i) any and all other relief as the Court finds just and proper.  
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Dated: July 22, 2019

Respectfully Submitted,

/s/ Jean-Paul Ciardullo  
Jean Paul Ciardullo, CA Bar No. 284170  
FOLEY & LARDNER LLP  
555 South Flower Street, Suite 3300  
Los Angeles, CA 90071-2411  
Phone: (213) 972-4500  
Fax: (213) 486-0065  
jciardullo@foley.com

Eley O. Thompson (*pro hac vice* forthcoming)  
FOLEY & LARDNER LLP  
321 N. Clark Street, Suite 2800  
Chicago, IL 60654-5313  
Phone: (312) 832-4359  
Fax: (312) 832-4700  
ethompson@foley.com

Lucas I. Silva (*pro hac vice* forthcoming)  
FOLEY & LARDNER LLP  
111 Huntington Avenue, Suite 2500  
Boston, MA 02199-7610  
Phone: (617) 342-4000  
Fax: (617) 342-4001  
lsilva@foley.com

*Counsel for Plaintiff*  
*Philips North America LLC*

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby respectfully requests trial by jury under Rule 38 of the Federal  
3 Rules of Civil Procedure on all issues in this action so triable.

4  
5 Dated: July 22, 2019

6 Respectfully Submitted,

7 /s/ Jean-Paul Ciardullo  
8 Jean Paul Ciardullo, CA Bar No. 284170  
9 FOLEY & LARDNER LLP  
10 555 South Flower Street, Suite 3300  
11 Los Angeles, CA 90071-2411  
12 Phone: (213) 972-4500  
13 Fax: (213) 486-0065  
14 jciardullo@foley.com

15 Eley O. Thompson (*pro hac vice* forthcoming)  
16 FOLEY & LARDNER LLP  
17 321 N. Clark Street, Suite 2800  
18 Chicago, IL 60654-5313  
19 Phone: (312) 832-4359  
20 Fax: (312) 832-4700  
21 ethompson@foley.com

22 Lucas I. Silva (*pro hac vice* forthcoming)  
23 FOLEY & LARDNER LLP  
24 111 Huntington Avenue, Suite 2500  
25 Boston, MA 02199-7610  
26 Phone: (617) 342-4000  
27 Fax: (617) 342-4001  
28 lsilva@foley.com

*Counsel for Plaintiff*  
*Philips North America LLC*